

• A4R
• 8.L33
• V15/15
Copy 3



South Carolina House of Representatives

Legislative Update

David H. Wilkins, Speaker of the House

Vol. 15

April 21, 1998

No. 15

CONTENTS

Week in Review	02
House Committee Action	11
Bills Introduced in the House	14

S. C. STATE LIBRARY

MAY 1 1998

STATE DOCUMENTS

OFFICE OF RESEARCH

Room 213, Blatt Building, P.O. Box 11867, Columbia, S.C. 29211, (803) 734-3230

WEEK IN REVIEW

HOUSE

The House amended and sent to the Senate H.3985, the "Omnibus Health Benefits and Education Act of 1998." As amended, the legislation requires a health benefit plan to allow its female enrollees, who are at least thirteen years of age, a minimum of two visits each year, without prior approval, to a obstetrician-gynecologist (OB/GYN) in the health benefit plan. Should the OB/GYN find during these two visits that continued treatment is medically necessary, additional visits must be authorized by the health benefit plan. The health benefit plan must notify enrollees of these benefits. The bill also requires that all health insurers which provide coverage for mastectomies, must provide coverage for hospitalization for at least forty-eight hours following the mastectomy. The bill further requires that all health insurers which provide coverage for mastectomies, must provide coverage for prosthetic devices and restorative surgery following a mastectomy so as to produce a symmetrical appearance. Additionally, the bill requires all health insurers to provide coverage for mammograms and annual pap smears.

The House amended and returned to the Senate S.310, "The South Carolina Patients' Insurance and Benefits Protection Act." As amended, the legislation requires an employer who offers to at least fifty eligible employees *only* a closed panel health plan (for major medical, hospitalization, and surgical health insurance coverage) to also offer to eligible employees a "point-of-service" option. A closed panel health plan is a network plan which requires insured members to seek covered health care services or supplies exclusively from network providers (except in emergency cases). In contrast, a "point-of-service" option provides coverage under which insured members may obtain covered health care services/supplies from either network providers or from providers outside of the network. Under the legislation, the employer may require an employee who chooses the point-of-service option to pay for any difference in premiums or other payments in excess of the benefits provided under the closed panel plan. The bill provides that differences between the coinsurance percentages for in-network and out-of-network covered benefits in a point-of-service option plan may not exceed twenty percent, or, five percent in the case of services provided by dentists.

The House concurred in Senate amendments to Joint Resolution H.4303 which proposes amending the South Carolina Constitution by removing the prohibition on the marriage of a white person with a negro, mulatto, or person with at least one-eighth negro blood. The prohibition on interracial marriages can be found in the state constitution, but, currently carries no force of law insofar as it has been held to violate the United States Constitution.

The House sent to the Senate Joint Resolution H.4998 which proposes amending the South Carolina Constitution so as to authorize the State Treasurer to invest endowment funds donated to specific state-supported institutions of higher learning.

Legislative Update, April 21, 1998

The House appointed a conference committee to reconcile differences with the Senate on S.850, the South Carolina Performance and Accountability for Excellence in Teaching and Learning Act.

The House appointed a conference committee to reconcile differences with the Senate on S.958 which pertains to the investment of state retirement funds.

The House approved S.1095 and the bill was enrolled for ratification. This bill states that a person completing his service as a grand juror is exempt from any further jury service in any court in this State for a period of five years. This bill also provides an alternative method for selecting and impaneling grand juries in this State. Under the alternative method, grand jurors would serve six-month terms and may be held over for one additional six-month term. Six of the grand jurors then in service who have not served two consecutive six-month terms would serve an additional six months. No person would serve as a grand juror for more than two consecutive six-month terms. A county governing body, by ordinance, may elect to use the alternative method of selecting and impaneling grand juries and grand jurors in that county based on its determination that grand jury case loads, length of time persons must serve as grand jurors, and other similar concerns require this alternative method.

The House approved and enrolled for ratification S.396 which amends current law relating to the contents of property tax assessment notices by deleting the requirement that the assessment notice must include the percentage change over the prior market value, if there is no change in use or physical characteristics of the property.

The House approved and enrolled for ratification S.876 which amends sections of Titles 11 and 12 of the *SC Code*, concerning duties of the SC Comptroller General and local auditors, so as to eliminate unnecessary reports and procedures, eliminate duplication of effort, and provide for more pertinent data. The bill updates laws pertaining to property tax and local financing reporting procedures so as to be consistent with recent statutory changes, technological progress, changes in accounting methods, and changes brought about by Home Rule.

The House concurred in Senate amendments to H.3184 and enrolled the bill for ratification. The bill increases penalties for the felony of disturbing or desecrating human remains. The maximum fine is raised from two thousand to five thousand dollars, and fines are authorized to be imposed in conjunction with imprisonment. The bill also provides that a crematory operator is neither criminally nor civilly liable for cremating a body which: (1) has been incorrectly identified by the funeral director, coroner, medical examiner, or other authorized individual; or (2) the funeral director has obtained invalid authorization to cremate. This immunity does not apply to a crematory operator who knew or should have known that the body was incorrectly identified.

The House amended and returned to the Senate S.22, which revises the State Freedom of Information (FOI) Act. As amended, the bill states that a public body may but is not required to exempt from disclosure certain matters that are currently exempt (including trade secrets, law enforcement records, and certain compensation paid by public bodies). The amended bill further specifies that a public body may exempt from disclosure documents incidental to a proposed contractual arrangement and documents incidental to proposed sales or purchases of

property; however, these documents are not exempt from disclosure once a contract is entered into or the property is sold or purchased. A contract for the sale of real estate will remain exempt from disclosure until the deed is executed. Confidential proprietary information provided to a public body for economic development or contract negotiations purposes need not be disclosed. The bill also exempts from disclosure certain matters gathered by a public body during a search to fill an employment position and certain data collected by staff at an education institution. The bill also specifies when a public body may hold a meeting closed to the public and that no action may be taken in executive session except to adjourn or to return to public session. Furthermore, the members of a public body may not commit the public body to a course of action by a polling of members in executive session.

The House amended and sent to the Senate H.4587 which requires that on November 11 of each year (Veteran's Day, a legal holiday in South Carolina) all elementary, middle, and high schools in South Carolina, if they are open, must devote at least one hour of the school day (in either classroom instruction or at a student body assembly program) to the study of the *US Constitution* and the *Declaration of Independence*. If these schools are not open on November 11, they must give this instruction on the day the school is open immediately preceding November 11.

The House sent to the Senate H.4670, which concerns the deadline for a person to file his or her statement of intention of candidacy. Currently, the notice must be between noon on March 16 and noon on March 30. This bill changes the date for filing the notice or pledge to between February 1 and February 16. The bill also requires the county committees to transmit to the state committees no later than February 16 all filings for candidates seeking nomination for the state Senate or House of Representatives. In addition, each candidate for selection as a nominee of any political party for any state office, U.S. Senator, member of Congress or solicitor, in order to be voted for in a primary election, must file with the treasurer of the state committee notice of candidacy by February 16. Every state Senate and House candidate, for selection in a primary election as the nominee of any political party, and all county and township offices also must file their notice of candidacy with the county chairman by February 16.

The House amended and sent to the Senate H.4884. This bill would allow a lobbyist's principal to provide items such as lodging and meals to legislators who are members of the South Carolina delegation attending a national or regional legislative meeting.

The House amended and sent to the Senate H.4785. As amended, the bill states that a limited partner may withdraw from a limited partnership only at the time or upon the happening of events specified in writing in the partnership agreement if the limited partnership was formed on or after July 1, 1998; or the limited partnership was formed before July 1, 1998, and the partnership agreement governing the limited partnership specifies in writing the time or the events upon the happening of which a limited partner may withdraw or a definite time for the dissolution and winding up of the limited partnership. If the partnership agreement governing a limited partnership formed before July 1, 1998, does not specify in writing the time or the events upon the happening of which a limited partner may withdraw or a definite time for the dissolution and winding up of the limited partnership, a limited partner may withdraw upon not less than six months' prior written notice to each general partner. If the partnership agreement

of the limited partnership is amended on or after July 1, 1998, to specify the time or the events upon the happening of which a limited partner may withdraw or a definite time for the dissolution and winding up of the limited partnership, the amendment shall apply retroactively to the date of the formation of the limited partnership.

The House sent to the Senate H.4683 which allows an insurance agent to obtain an exemption from statutorily-required continuing education programs, when he completes substantially similar continuing education programs which are required by his professional association in order to maintain professional insurance designations (for example, Certified Life Underwriter). Such insurance agents who desire an exemption must make a written request biennially to the Department of Insurance. The Director of the Department of Insurance or his designee determine when continuing education courses are substantially similar to statutorily-required courses.

The House amended and sent to the Senate H.4642 which amends *Act 258* of 1998, which became law on January 15 of this year. The bill adds a provision to *Act 258* that a person who holds a valid restricted driver's license on July 1, 1998, may obtain a regular driver's license before the age of seventeen if, after one year from the date of issuance of the special restricted license, the driver has not been convicted of a point-assessable traffic offense posted to his driving record during that period. The House amended the bill by adding a provision repealing *SC Code* Section 56-1-141, which relates to the equivalence of successful completion of a qualified school driver's education program with meeting department standards for a driver's permit or license.

The House amended and sent to the Senate H.4750 which authorizes (or in some instances requires) the SC Department of Transportation (DOT) to: establish with the State Treasurer special funds out of the DOT's funds for proper accounting purposes; relax design and construction standards for highway projects in the secondary state highway system without incurring liability; expend all cash balances brought forward from a prior year, up to a maximum limit specified in the bill; secure bonds and insurance covering activities of the DOT; provide its employees with equal compensation increases, health insurance benefits, and employee bonuses provided in the state's general appropriations act (a requirement); establish a schedule of document fees. The House amended this bill to provide that DOT employees shall receive *at least* equal compensation increases, health insurance benefits, and employee bonuses provided in the state's general appropriations act.

The House amended and returned to the Senate S.1025 which provides that the South Carolina Department of Corrections (SCDC) may consider placing an inmate in a facility or institution closest to the inmate's home when designating the place of confinement, if at-home placement does not jeopardize security. Proximity to a convicted person's home would not have precedence over departmental criteria for institutional assignment.

The House amended and sent to the Senate H.4614. This bill specifies that a governmental entity's lease purchase agreements for energy efficiency products or guaranteed energy savings contracts are not to be included among the lease-purchasing or financing agreements which are subject to the state constitutional debt limitations set for governmental entities. The House amended the bill by striking all after the enacting words and inserting provisions which

provide that in order not to be included among the lease-purchasing or financing agreements which are subject to the state constitutional debt limitations for governmental entities, a lease-purchase agreement must be for acquisition of specified energy efficiency products, or a guaranteed energy savings contract for specified energy conservation measures, where no such lease agreement or contract shall constitute in any manner an agreement, consent, authority, or otherwise to provide retail sales of energy by an energy or power provider or create the authority to sell or provide retail energy or power.

The House amended and sent to the Senate H.4898 which amends SC law regarding retirement system credit by providing that any member of the SC Retirement System, the General Assembly Retirement System, and the Police Officers' Retirement System with two or more years of creditable service shall receive additional creditable service for the period of his military service at the rate of one year of military service for each *one year* (current law is for each *two years*) of his creditable service excluding any period of creditable military service, as long as he meets certain conditions as specified under current law. The bill also provides that active military duty includes service in the national guard, and the bill specifies how a member may establish creditable service for national guard service. The bill also provides that the prohibition on duplication of benefits applicable to credit established for federal employment also applies to credit established for service in the national guard and national guard service may not be established for periods of service credited or creditable in the retirement systems which are referenced in this bill. The House amended the bill by adding a provision which provides that in the case of a member whose military service was rendered before his employment by an employer the payments by the member must be determined on the basis of his earnable compensation at the time he first became a member of the system, and the required employer contribution must be assumed by the *member's current employer*. Current law provides that in such a circumstance, the employer contribution must be assumed by the State.

The House sent to the Senate H.4694 which amends the *SC Code* relating to eligibility for the State Health and Dental Insurance Plans so as to clarify that the entity formerly known as the Division on Aging, Office of the Governor, is now known as the Office on Aging, and is under the Department of Health and Human Services. The bill also adds to the statutory definitions of "*Employee*," as relates to the SC Retirement System, "an employee of a local council on aging or other governmental agency providing aging services funded by the Office on Aging, Department of Health and Human Services," and adds to the definition of "*Employer*," "a local council on aging or other governmental agency providing aging services funded by the Office on Aging, Department of Health and Human Services."

The House sent to the Senate H.4822 which provides that if a person liable to pay a tax does not pay it after demand, the amount of the tax, including interest, additional tax, addition to tax, or assessable penalty plus accrued costs, is a lien in favor of the Department of Revenue (DOR) on all property and rights to property, real or personal, belonging to the person. This lien, referred to as a "*tax lien*," is effective on the date of the assessment of the tax and continues for ten years from the date of filing. The bill allows an authorized agent of the DOR to seize, levy on, and sell the property of the person for payment of the amount due, with added penalties, interest, and costs, and to pay the money collected to the DOR. Current statutory provisions include allowing for issuance of a *warrant of distraint* if taxes are not paid

Legislative Update, April 21, 1998

ten days after they are due and payable, and include a provision that the amount of the warrant is not a lien on the title to and interest in the property of the taxpayer against whom it is issued, *until it is filed* and entered in the judgement docket. The bill also adds a new section to the *SC Code*, providing requirements for validating tax liens in varying circumstances.

The House amended and sent to the Senate **H.4868** which revises the definition of "*motor carrier*" as it relates to the assessment of property taxes, by clarifying that the definition extends to the transportation of both property and persons. The bill provides definitions (in the context of property tax assessment) for "*bus*" and for "*gross capitalized cost*." The bill also provides that if a motor carrier fails to file an annual property tax return with the Department of Revenue (DOR), the department must issue a proposed assessment which assumes all mileage was within the state (the value of a motor carrier's vehicles subject to property taxes in SC is based on the ratio of total mileage operated within this state during the preceding calendar year to the total mileage of its entire fleet operated within and without SC during the same preceding calendar year). The bill also revises the basis on which motor vehicle taxes are annually assessed by DOR, adds a requirement that DOR must publish the average millage for the preceding year by June 1 of each year, and deletes a provision that the average millage may be increased to cover loss of revenue incurred by DOR from not licensing trailers. The House amended the bill by changing the effective date to "upon approval by the Governor for calendar years beginning after December 31, 1997." The original bill's effective date was upon approval by the Governor for calendar years beginning after December 31, 1998.

The House sent to the Senate **H.4119**. This joint resolution proposes an amendment to Section 14(10), Article X, of the *SC Constitution* authorizing the General Assembly to provide by law for counties to incur indebtedness for the purpose of redevelopment and to provide that the debt service for such indebtedness be provided from the added increments of tax revenues to result from such projects.

The House amended and sent to the Senate **H.4120**. This bill, which if passed would be effective upon ratification of a constitutional amendment to Section 14, Article X of the SC Constitution, authorizing counties to incur indebtedness for redevelopment projects (see **H.4119**), provides for implementation of such authorization and provides for the payment of such indebtedness from added increments of tax revenues. "Redevelopment projects" are defined in the bill as any buildings, improvements, including street improvements, water, sewer and storm drainage facilities, parking facilities, and recreational facilities. Also, the bill provides that any project authorized under *SC Code* Section 6-21-50 (*Revenue Bond Act for Utilities - Authorized Public Works Which May be Purchased or Constructed*) may also qualify as a redevelopment project. All such projects are to be owned by the county. The House amended this bill to provide that the millage rate for an area under the Tax Increment Financing Law will be calculated using the base assessment of the Tax Increment Financing Law should a municipality annex into a Tax Increment Financing District.

The House sent to the Senate **H.4801** which provides clarifying language concerning types of school materials which qualify for state sales tax exemption. The bill also deletes the requirement that a festival must be listed as a special event in the events calendar provided by the Department of Parks, Recreation, and Tourism before concessions sold at the festival are exempt from sales tax.

The House sent to the Senate H.4848 which adds a section to the *SC Code*, allowing a specified extension of time to an innocent taxpayer for payment of an amount due, and allowing the Department of Revenue (DOR) to require that the taxpayer furnish a bond. The bill also places frivolous or groundless claims with the administrative law judges rather than with the circuit courts. The bill also provides that any person convicted of assisting in the preparation of a fraudulent return is guilty of a felony and is prohibited from assisting in the preparation of any return (such assistance is also a felony under the bill). The bill also increases from 30 days to 90 days (after final determination is received from the Internal Revenue Service) the notification period that a corporation is required to provide to the DOR when the taxable income is changed by the Internal Revenue Service. The bill also provides that, when outside contractors are collecting delinquent taxes for the DOR, the contractors may collect on a package of notices in total.

The House amended and sent to the Senate H.3932 which specifies the types of telecommunication services that are taxed under sales and use tax code statutes. Local telecommunication services, cable television subscriber services, and paging and answering services would continue to be taxed at 5%; Internet access by local providers would not be taxed under this bill.

The House sent to the Senate H.4435 which updates the reference date whereby South Carolina adopts various provisions of the Internal Revenue Code. Also, the bill provides that a taxpayer may elect a 1985 reference date with respect to certain corporate liquidations.

The House sent to the Senate H.4634 which provides that when ownership of personal property required to be titled by a state or federal agency (not including motor vehicles or units of manufactured housing) is transferred, the transferor's property tax year for the property ends on the transfer date and a new property tax year begins for the transferee. The bill provides for prorating the taxes due. The provisions of the bill apply only if the transferor files with the auditor before the first penalty date for property taxes a form designed by the Department of Revenue, signed by the transferee, in which the transferor assumes personal liability for his share of the taxes, and which provides that information necessary to prorate and bill the taxes.

The House sent to the Senate H.4850 which amends Section 12-8-570 of the *SC Code*, regarding withholding by trust or estate from distribution to a nonresident beneficiary, by providing that this section does not apply to a nonresident beneficiary who is exempt from taxation under the Internal Revenue Code Section 501 or a nonresident beneficiary who agrees to be subject to the jurisdiction of the Department of Revenue and the courts of South Carolina to determine South Carolina tax liability. The bill provides that the agreement is not an admission of tax liability. The bill also amends current law concerning an incorrect withholding exemption certificate, notification of rate of withholding, and appeal of determination. The bill also increases from \$500 to \$1,000 the fine for wilfully supplying to an employer false information or wilfully failing to supply certain information which would require an increase in income tax to be withheld, and provides that offenses in this section are triable in magistrate's court. The bill provides that an individual required to supply information to his employer under Chapter 8 of Title 12 (Income Tax Withholding) of the *SC Code of Laws* who supplies a withholding exemption certificate which exceeds the number to which he is entitled, is liable

for a penalty of at least \$50 for each exemption claimed that exceeds the number to which he is entitled, with no maximum penalty provided. Current law caps this penalty at \$1,000.

The House sent to the Senate H.4851 which provides that the expenses for witnesses appearing before the Department of Revenue (DOR) must come from income taxes rather than from the particular tax involved in the proceeding. The bill also lists entities from whom acceptable proof to qualify for water impoundment credit can be obtained. The bill also provides a due date for filing corporate returns for foreign corporations that do not have offices in the United States. The bill also requires those sellers subject to use tax to obtain a retail license. The bill also clarifies the expenditure of the one-time fee on trailers and semi-trailers. The bill requires that interest on refunds to taxpayers must be drawn from the tax type being refunded or credited. The bill also provides, in the case of an underpayment of declaration of estimated tax, a minimum requirement of \$500 before declaration penalties would apply. The bill clarifies that the State Treasurer must reduce the remittance back to counties related to solid waste fees on tires by any credits, refunds, or discounts previously allowed. Other provisions of this bill update to new terminology, make technical corrections, and correct inconsistencies. The committee amended the bill by adding a provision regarding local sales and use tax, requiring that certain misallocations by the State Treasurer made as a result of city or county code errors must be corrected prospectively. The committee also added a provision to the bill regarding the current requirement that lease agreements between counties and other parties must contain provision for fee-in-lieu-of-taxes. That amendment adds water and sewer authorities as subject to the same requirement in this regard as a county, a municipality, a school district, or other political subdivision; the amendment also replaces the word "industry" with "other party" with regard to these agreements; and the amendment adds that these provisions are effective for leases entered into after the approval by the Governor. The committee also struck a section of the bill relating to tax credits against corporate license fees and inserted a provision that corporate license fees may be reduced by credits currently provided for certain corporate headquarters or by certain other tax credits which are currently allowed, or both.

The House amended and sent to the Senate H.4802. This bill inserts provisions which prohibit renewal (but not transfer) of watercraft registration if the Department of Natural Resources has notice that property taxes are owed on the watercraft. Also, the bill provides that if renewal of registration has been denied pursuant to these provisions, a tax receipt from the person officially charged with the collection of *ad valorem* taxes in the county of residence must be accepted as proof that the taxes have been paid.

The House amended and returned to the Senate S.443 which adds language to the *SC Code* providing that the county assessor has the right to enter and examine all new nonresidential buildings and structures and those portions of an existing building or structure covered by a building permit for renovations or additions. The House amended the bill by clarifying that the county assessor's right to enter includes all new nonresidential buildings and structures and those portions of an existing *nonresidential* building or structure covered by a building permit for renovations or additions.

The House sent to the Senate H.5001 which provides for notification requirements and places restrictions on the use electronic receipts in the state warehouse system, as well as revises other provisions relating to the state warehouse system.

The House sent to the Senate H.4991. Current law prohibits the use of traffic accident reports as evidence of the negligence or due care of either party at the trial of any action at law to recover damages. This bill states that law enforcement officers may refer to these reports when testifying in order to refresh their recollection of events.

The House amended and sent to the Senate H.4547, which would allow the Department of Revenue to issue a license to sell alcohol to a publicly held corporation. Under current law, no license or permit to sell beer, wine, or alcohol may be issued to an organization or corporation as an entity. The corporation must designate an officer or other employee (over age 21, a S.C. resident, and of good moral character) who would hold the license in his name. Upon written notice to the Department, the corporation could substitute another officer or employee who meets the same statutory requirements to hold the license. The bill also deletes the requirement of a bond to be held by a warehouse for the storage of liquor.

The House amended and sent to the Senate H.4804, which states that it is unlawful for a person knowingly and wilfully to deliver or convey to a public employee a written, verbal or electronic communication which contains a threat to take the life of or to inflict bodily harm upon the public employee or members of his immediate family. Violators must be fined not more than \$500 and/or imprisoned not more than 30 days. The bill provides that a person who is found guilty of knowingly and wilfully delivering a threat to take the life or inflict bodily harm upon a public official, teacher, or principal must be fined not more than \$5000 and/or imprisoned not more than 5 years.

The House amended and read for the second time S.992. This bill adds a section to the SC Code regarding the payment and collection of tolls. The bill provides that if a vehicle drives through a turnpike facility without payment of the required toll, the owner and operator of the vehicle is liable to the Department of Transportation (DOT) to pay the required toll, administrative fees (maximum amounts are specified in the bill), and civil penalty as provided in the bill; and the DOT may enforce the collection of the toll as provided in the bill. The bill specifies procedures and timelines which must be followed by the DOT and by county magistrates and municipal courts in the event of single and multiple toll violations, including provisions for determining that the person or entity charged is liable, and the magistrate or municipal court's authority to collect the unpaid tolls and administrative fee and forward them to the DOT or its agent. The court may also impose a specified civil penalty, plus court costs and attorney's fees. The bill also makes provisions for toll violations when the violating vehicle has been reported as stolen, when the violating vehicle was leased to an entity other than the owner, and when the violating vehicle was operated by someone other than the owner. The bill also provides for setting up and for payment of electronic toll collection accounts. The bill exempts from the payment of tolls public school buses transporting public school children for a school event. The House amended the bill by deleting the word "public" so as to provide that school buses transporting school children for a school event are exempt from payment of tolls. The House also struck a provision allowing retroactive application for compliance with the provisions of the bill.

The House amended and sent to the Senate H.4810. This bill concerns the preparation of a birth certificate of an illegitimate child when a father acknowledges paternity. This bill states that if either signatory or both signatories of a voluntary paternity acknowledgment rescinds within sixty days, a new certificate may be prepared only when a determination of paternity is made by a court of competent jurisdiction or an administrative agency. The bill also states that a verified voluntary acknowledgment of paternity executed after January 1, 1998, creates a rebuttable presumption of the putative father's paternity. Any form used to obtain an acknowledgment of paternity must contain or be accompanied by a plain language explanation, meeting the minimum standards of readability, of the legal consequences of signing the form, and the effect of rescission.

SENATE

The Senate gave third reading to S.1166, a joint resolution proposing an amendment to the State Constitution. The legislation would provide that a candidate for the Senate or House of Representatives must be a legal resident of the district in which he is a candidate at the time he files for the office. The Senate amended and gave third reading to S.1070, which concerns certain vehicles and their compliance with the U.S. Department of Transportation Federal Motor Carrier Safety Regulations. The Senate also amended and gave third reading to S.914, the South Carolina Garnishment Act of 1998 and S.325, relating to bail and bail bondsmen (for a more detailed summary of these bills, see the Bills Introduced section of this Update).

HOUSE COMMITTEE ACTION

AGRICULTURE, NATURAL RESOURCES AND ENVIRONMENTAL AFFAIRS

The Full House Agriculture, Natural Resources and Environmental Affairs Committee met on Tuesday, April 14, and gave a favorable reports to several bills.

H.4939 was given a report of favorable. In June, 1996, the Colonial Pipeline ruptured and spilled nearly one million gallons of diesel fuel into the Reedy River near Greenville. South Carolina ultimately reached a settlement agreement with Colonial Pipeline over the environmental damage the spill caused. This resolution states that any funds received by the State from the Colonial Pipeline settlement must be credited to the Mitigation Trust Fund and used for environmental cleanup of the Reedy River.

H.4886 was reported favorable with amendments. This bill mandates the Department of Natural Resources (DNR) to promulgate regulations to allow upper limb handicapped persons to use a crossbow to hunt deer in game zones 1, 2, and 4 during seasons when archery tackle may be used. The committee proposed an amendment that rewrites the bill. The amendment defines "archery equipment," a "bow and arrow," a "crossbow," and an "upper limb disability." The amendment authorizes the use of a crossbow *statewide* by an upper limb handicapped person who has in their possession a written statement certifying the disability. The statement

must describe the disability and state that the handicapped person is not capable of operating archery equipment or a bow and arrow. A copy of the statement must be provided to DNR prior to hunting with a crossbow.

H.4689 was reported favorable with amendments. This bill technically revises the Safe Drinking Water Act. The bill amends and revises definitions relating to water supply and the public water system and amends several statutes to conform to the revised definitions. Classification groups for all public water systems are also revised. The committee proposed an amendment to **H.4689**. Under the Act, DNR is authorized to collect an annual fee from each public water system to implement the state and federal Safe Drinking Water Acts. The amendment states that the schedule for the annual fee may not be increased except in accordance with the Administrative Procedures Act. If the General Assembly appropriates additional funds to implement the federal Safe Drinking Water Act, DNR is authorized to adjust the fee schedule by an equivalent amount.

The Committee reported **H.4453** favorable with amendments. Currently, to hunt or shoot doves over a baited area is illegal. This bill creates the misdemeanor crime of unlawfully baiting a dove field. Violators are subject to fines of between \$50 and \$100 or 30 days imprisonment. The Committee amendment changes the word "dove" to "migratory birds" and increases the fines for violation to between \$200 and \$500.

S.1084 was given a favorable report. Under state law, to operate a commercial motor vehicle on South Carolina highways without a commercial driver's license is illegal. This bill adopts federal exemptions that allow a person to operate a farm vehicle without a commercial driver's license to transport agricultural products and machinery including hazardous material such as fuels, fertilizers, and other agriculture chemicals that pose no substantial danger to public health and safety.

S.1058 was reported favorable. This bill designates a portion of the Ashley River as a scenic river. The designated portion is located between the Highway 17A bridge crossing the Ashley River and the railroad crossing located 21.5 miles downstream commonly known as the Drayton Hall Railroad Trestle.

S.278 received a favorable report with amendments. This bill adds and technically amends several provisions relating to ill treatment and abandonment of an animal. The bill amends the definition of an "animal," to include all living vertebrate creatures except humans. A definition is added for "sustenance" and "shelter." The bill allows a person who had allegedly disobeyed animal treatment laws to be heard in either magistrate's or municipal court (Now, all animal abuse cases are tried in magistrate's court). The phrase "necessities of life" is amended to delete the requirement that an owner must provide clean, fresh, and potable water at least once daily. The bill establishes the process by which a neglected or mistreated animal can be removed from its present custody and given protection until an appropriate disposition is made. If an animal owner or guardian is convicted of mistreatment, that person forfeits ownership or custody of the animal. The court is given the discretion to order that person to pay costs incurred to care for the animal and other related expenses. The committee adopted an amendment that strikes section 5 and 6 of the bill. Section 5 mandates that any company transporting an animal must not overload the vehicle and not confine the animal for a period

longer than 24 consecutive hours. Section 6 makes technical changes relating to the care of an animal while being unloaded during transit.

EDUCATION AND PUBLIC WORKS

The full Education and Public Works Committee did not meet this week.

JUDICIARY

The House Judiciary Committee amended and passed S.284, which requires the Secretary of State to monitor all elected or appointed state boards and commissions and to publicize vacancies, expired terms, and those terms expiring within one year on a semiannual basis statewide. The amended bill also devolves the duties, functions, and responsibilities of the Public Charities Section of the office of the Attorney General upon the Secretary of State's office on July 1, 1998. All personnel originally transferred from the Secretary of State's office and still employed by the Attorney General in the Public Charities Section, appropriations, and full-time equivalent positions of the Public Charities Section also would be transferred to the Secretary of State's office on July 1, 1998.

The full committee amended and gave a favorable recommendation to H.4821. This bill prohibits the impersonation of a state or local official or employee or a law enforcement officer in connection with a sham legal process, or the false assertion of authority of state law in connection with a sham legal process. A person may not act without authority under state law as a judge or other authorized official in determining a controversy, adjudicating the rights or interests of others, or signing a document as though authorized by state law. As amended, the bill states that violators would be guilty of a misdemeanor and, upon conviction, must be fined up to \$2,500 and/or imprisoned up to one year.

The bill also prohibits a person from falsely asserting authority of law, in an attempt to intimidate or hinder a state or local official or employee or law enforcement officer in the discharge of official duties, by means of threats, harassment, physical abuse, or use of sham legal process. Violators would be guilty of a felony and, upon conviction, must be fined not more than \$10,000 and/or imprisoned from 1 to 3 years. The amendment also added a civil cause of action for people injured by a sham legal process. The injured person would be entitled to actual and punitive damages, costs, and reasonable attorney's fees.

H.4804, H.4547, and H.4810 were given favorable reports by the Judiciary Committee and passed by the House (see *House Week in Review* for bill summaries).

LABOR, COMMERCE AND INDUSTRY

The Labor, Commerce and Industry Committee met on Tuesday, April 14, and considered H.4465 which provides for the reorganization of a domestic or foreign mutual insurer as a domestic mutual insurance holding company system. The committee approved entirely

different legislation regarding mutual insurance holding companies as Committee Bill H.5056. The committee bill authorizes a mutual insurance company to form holding companies and sell shares for a stock company subsidiary. Under the legislation, a mutual insurer could reorganize as two new companies, a holding company and a stock insurance company, which would operate together. In such an arrangement, the holding company, comprised of policy holders, could not issue stock, but would own a majority of the voting shares in the stock insurance company. The stock insurance company would be authorized to raise capital by selling a minority interest of its voting stock. Should a mutual insurer reorganize as provided in the bill, officers, directors and employees are prohibited from purchasing stock in the reorganized company for six months. Under current law, a mutual insurer cannot sell stock.

The committee gave a favorable report to H.4683 which was approved by the full House (see *House Week in Review*, this issue).

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

The full Medical, Military, Public and Municipal Affairs Committee did not meet this week.

WAYS AND MEANS

The full Ways and Means Committee did not meet this week.

BILLS INTRODUCED IN THE HOUSE

AGRICULTURE, NATURAL RESOURCES AND ENVIRONMENTAL AFFAIRS

S.1185 RESTRICTIONS ON LAKE WILLIAM C. BOWEN Sen. Reese

Watercraft powered by an outdrive or inboard motor with an engine of automotive horsepower rating in excess of 190 horsepower are restricted on Lake William C. Bowen in Spartanburg (with certain exceptions). This bill excludes from those restrictions any Coast Guard inboard boat designed by the manufacturer for towing water skiers with the motor located near the midpoint of the boat between the bow and stern, that is propeller driven by a single rod shaft extending through the hull with the propeller located under the boat in front of a rudder.

H.5034 DRY-CLEANING FACILITY RESTORATION TRUST FUND Rep. Witherspoon

The Dry-Cleaning Facility Restoration Fund is used for investigation, treatment, restoration, maintenance and monitoring of dry-cleaning facility sites that show evidence of contamination that poses a threat to the environment or to public health and safety. This bill changes the amount that the Department of Health and Environmental Control (DHEC) may expend for investigation and rehabilitation activities for any one site from 5 percent of the average collected annual balance, to \$50,000. The bill extends the deadline from December 1, 1996 to

July 1, 1999 that a facility owner or operator must be certified as competent to operate a dry-cleaning facility. The bill also extends the deadline from January 1, 1997 to July 1, 1999 that an owner or operator must have installed dikes around any dry-cleaning machinery that stores solvents or waste contaminating solvents.

EDUCATION AND PUBLIC WORKS

H.5004 SCHOOL ADMINISTRATORS Rep. Miller

This bill provides that school administrators employed on an annual or multi-year contract shall retain their contract status as a teacher but shall not be granted a contract status as an administrator. The bill makes provisions for administrators presently under contract with a contract status as an administrator, and makes provision for employment dismissal of teachers who are covered under the provisions of this bill.

H.5008 TUITION & FEES AT STATE-SUPPORTED COLLEGES Rep. Wilkins

This bill increases from one year to five years the minimum period that an independent person must reside in and have been domiciled in South Carolina, with an intention of making a permanent home therein, before that person or their dependents may be considered eligible for in-state rates on tuition and fees at state-supported colleges and universities, unless that independent person is employed on a full-time basis in South Carolina. Also, the bill provides that a dependent person may enroll and continue to be enrolled at the in-state rate in a state-supported institution of higher learning, even if the parent, spouse, or guardian upon whom he is dependent moves his domicile from this state, so long as the dependent person has been domiciled with his family in South Carolina for at least *five* years immediately prior to his enrollment. Currently the minimum period is *three* years.

H.5010 TUITION & FEES AT STATE-SUPPORTED COLLEGES Rep. Cobb-Hunter

This joint resolution freezes tuition and fees at state-supported colleges, universities, and technical colleges at their 1997-98 academic year levels until the General Assembly by law permits increases therein.

H.5016 STANDARDS FOR PURPOSES OF "PASS" ACT Rep. Townsend

This bill provides the math, English/language arts, and science standards for purposes of implementing the standards and assessment sections of the Performance and Accountability Standards for Schools Act (**H.4399**).

H.5017 CHILDREN FIRST! INITIATIVE ACT Rep. J. Smith

This bill establishes the *SC Children First! Initiative*, a comprehensive, long-range plan for improving early childhood development by providing high-quality early childhood education and development services for young children and families. The bill requires that the Department of Health and Human Services (the Department) carry out the initiative, including overseeing, selecting, developing, and implementing local Children's First! Initiatives, and the bill authorizes the Department to contract with a private nonprofit corporation for implementation of the initiative. The bill provides specific requirements for the Department to include in the process of carrying out the initiative, including submission of an annual report to the Governor and the General Assembly. The bill requires any private, non-profit corporation with which the

Department contracts for implementation of this plan to include representatives of specified agencies and organizations on its board of trustees; and the bill requires that any entity with which the department contracts to implement the initiative must conduct meetings and disclose records in compliance with the Freedom of Information Act. The bill provides requirements for local Children First! Initiatives, including procedures for receiving grants, and requirements for membership on and operation of boards for local initiatives. The bill requires that when selecting a site for a local initiative, the Department must review that initiative's plan and budget; and the Department is required to provide technical, program, and financial assistance to local initiatives. The bill requires that all activities and services provided by a local initiative must be made available to young children and families on a voluntary basis, and the bill lists various suggested activities which may be included. The bill prohibits local initiatives from using funds (as provided under this bill) where other state or federal funding sources are available or could be made available to that community, and the bill requires that at least 50% of all funds provided for local initiatives be used in the area of child day care services. The bill limits funds for overhead costs to 15% statewide. The bill allows state funds for the Children First! Initiative startup and related activities to be used for capital activities or to support activities for children, families, and providers. The bill prohibits using state funds designated for activities and services for major capital expenses unless the local initiative demonstrates need as delineated in the bill, and certain funds for capital expenditures may not exceed 25% annually of the total funds for direct services allocated to a local initiative. The bill requires a minimum match of 5% of the total amount awarded to the initiative in each fiscal year. The bill provides requirements that must be met by local initiatives to satisfy matching fund provisions, and the bill requires that the Department establish guidelines for local initiatives and for the Department regarding cash and in-kind contributions and regarding expenditures. The bill requires that funds appropriated and awarded for local initiatives during the 1998-99 fiscal year may be carried forward, but in subsequent years, the amount carried forward by a local initiative may not exceed the increase in funding the local initiative received during the current fiscal year over the prior fiscal year. The bill sets out requirements for local initiative accountability, including a required annual audit. The bill also provides for evaluation of statewide and local initiatives.

H.5026 SC SCENIC HIGHWAY DESIGNATION Rep. Harrell

This bill designates a certain portion of SC Highway 61 in Charleston County as a SC Scenic Byway. The bill also provides that Ashley River Road Scenic Byway is subject to certain regulations promulgated by the SC Department of Transportation and the SC Scenic Highway Committee for Scenic Byways.

H.5027 SCHOOL BUS TRANSPORTATION Rep. M. Hines

This bill provides that the State assumes no obligation to transport any child to or from school who lives within *one-half mile* of the school he attends, unless it is for the health and safety of the child, upon which case the State may assume the obligation. Current law provides that the State does not assume this obligation if the child lives within *one and one-half miles* of the school he attends, unless it is for the health and safety of the child.

H.5028 "EARLY CHILDHOOD INITIATIVE ACT" Rep. Byrd

This bill enacts the "*Early Childhood Initiative Act*," whose purpose is to establish a framework whereby the General Assembly may support an early childhood initiative statewide and through

local partnerships, which have as their missions the development of a comprehensive, long-range strategic plan for early childhood development, and the provision of high quality early childhood education and development services for children and families. Administration and oversight for the initiative is to be provided by the Department of Health and Human Services (the Department), with an advisory board including the State Superintendent of Education, the President of the State Board for Technical and Comprehensive Education, the Director of the Department, representatives from all of the State's congressional districts, and seventeen gubernatorial appointees. The bill directs the Department to develop and implement a standard fiscal accountability plan and a centralized accounting and contract management system, to include minimum components provided in the bill, which must be adopted by all local partnerships. The bill also includes requirements for the Department regarding allocation of direct services funds to local partnerships, which may be adjusted by the Department based on performance assessments. The bill also includes provisions regarding ratings for these assessments and subsequent adjustment of funds from the Department to the local partnerships. The bill requires that the Department establish local partnership advisory committees and provides for their composition, terms, and responsibilities. The bill also requires the Department to report quarterly to the General Assembly and the Governor on the progress of the local initiatives. Other actions by the Department required in the bill include development of a statewide process for selection of local projects; development and conducting of a statewide needs and resource assessment; development and maintenance of an automated, publicly accessible database of all regulated child care programs; adoption of regulations necessary to implement the provisions of the bill; and annual updating of the Department's funding formula using the most recent data available. The bill requires that the Director of the Department approve all allocations of state funds to local projects and approve all local partnership plans. The bill provides requirements which local partnerships must meet in order to receive state funds and provides requirements, guidelines, and recommendations for local use of these state funds. The bill prohibits home centered services except under specified conditions, which include a specified consent from the participating parents who must also have access to records of home services and who have the right to record a written response to any information in such a record.

S.1174 NAMING OF BRIDGE Sen. Glover

This bill requests that the Department of Transportation (DOT) name the Church Street Bridge between West Darlington Street and East Cheves Street in Florence, South Carolina, in honor of Dr. Martin Luther King, and requires that the DOT erect appropriate signage as provided in the bill.

S.1070 INTERMODAL TRAILERS, CHASSIS, OR CONTAINERS Sen. Land

This bill provides that no person may tender a vehicle for use on any highway, which is in violation of requirements of the US Department of Transportation Federal Motor Carrier Safety Regulations (FMCSR) to a carrier or driver. The bill also allows the Department of Public Safety (DPS) State Transport Police, under certain conditions, to enter upon, and perform courtesy inspections of vehicles for certain purposes before being tendered for use on public highways. The bill also requires that, if a vehicle that is tendered is placed out of service due to a roadside inspection within five complete working days from the time the motor carrier is tendered the vehicle as indicated on the equipment interchange agreement, then the operator must be reimbursed for all fines and penalties incurred due to the out-of-service order, including

reimbursement for certain expenses necessary to bring the vehicle into compliance with the FMCSR. The bill requires that reimbursement must be made to the operator within thirty days after the date of conviction, and the bill specifies equipment repairs for which payment must be included. The bill requires that the DPS develop and maintain a separate database, to be used for purposes specified in the bill, on roadside vehicle inspection reports for power unit defects on any vehicle tendered to the motor carrier.

JUDICIARY

H.4991 TRAFFIC ACCIDENT REPORTS Rep. Baxley

Current law prohibits the use of traffic accident reports as evidence of the negligence or due care of either party at the trial of any action at law to recover damages. This bill states that law enforcement officers may refer to these reports when testifying in order to refresh their recollection of events.

H.5000 LEGAL RATE OF INTEREST Rep. Scott

All money decrees and judgments of courts draw interest according to law. Current law sets the legal interest at a rate of fourteen percent per annum. This bill states that the legal rate of interest is equal to the coupon issue yield equivalent, as determined by the State Treasurer, of the average accepted auction price for the last auction of 52 week U.S. Treasury bills settled immediately prior to the date of the judgment. Interest will be computed daily to the date of payment and compounded annually.

H.5007 PROPERTY EXEMPT FROM BANKRUPTCY PROCEEDINGS Rep. Wilkins

This legislation exempts individual retirement accounts, individual retirement annuities, and individual retirement trusts from bankruptcy proceedings or attachment.

H.5011 ADOPTION PROCEEDINGS Rep. Beck

This bill provides that after the final order of adoption is entered, no party to an adoption proceeding may question the validity of the adoption because of any defect or irregularity, jurisdictional or otherwise, in the proceeding, and a party is fully bound by the order. No adoption may be attacked either directly or collaterally because of any procedural or other defect by anyone who was not a party to the adoption. The failure on the part of the court or an agency to perform duties or acts within the time required by law does not affect the validity of any adoption proceeding.

A party to an adoption proceeding may appeal a final order of adoption in the manner provided for appeals from the court in other family court matters. Also, a parent or guardian whose consent was obtained by fraud or duress may, within 6 months of the time the fraud or duress is or ought reasonably to have been discovered, move to have the final order set aside and the consent declared void. A parent or guardian whose consent was necessary but was not obtained may, within 6 months of the time the omission is or ought reasonably to have been discovered, move to have the order of adoption set aside.

H.5019 COUNTY ORDINANCES Rep. Davenport

This bill states that if a business locates on property in an unzoned, unincorporated area of the county adjacent to an established residential subdivision, the county by ordinance may require the business to take reasonable steps to reduce noise, lighting, and noxious odors detrimental to the quality of life and property values in the subdivision. The restrictions may include buffer zones, barriers, and restrictions on the hours of operation. This legislation would not limit other remedies available to abate nuisances.

H.5022 PROPERTY APPRAISALS Rep. Inabinett

Before initiating a condemnation action, the condemnor must have the property appraised to determine the amount that would constitute just compensation for its taking and make the appraisal available to the landowner. This bill states that in cases involving the appraisal of owner-occupied residential property, the appraisal must be the value determined by the condemnor's appraiser or 125% of the appraised value of the property as determined by the local tax assessor (whichever is greater) if a condemned residence is not inhabitable or a building in which a business is operated cannot conduct business.

S.1126 FILING DATES Sen. Leventis

This bill requires the party to certify a candidacy 60 days prior to an election to the municipal election commission. If filing by statement of candidacy is authorized, the individual candidate must file a statement with the commission at least 60 days prior to the election. A petition candidate must file the petition with the municipal clerk at least 75 days prior to the general election. After the clerk turns the petition over to the commission, it must determine its validity at least 60 days prior to the general election. For nonpartisan special elections, if the petition method is authorized, the candidate must file the petition with the municipal clerk not later than 60 days prior to the election. The commission must determine the validity of the petition not later than 45 days prior to the election and when so validated, shall place the candidate's name on the ballot. If the statement of candidacy is authorized, these statements must be filed not later than 45 days prior to the election.

H.5030 ELECTION CAMPAIGN CONTRIBUTIONS Rep. Tripp

This bill requires a candidate or committee to maintain and preserve an account of the occupation of each person making a contribution of \$500 or more. Certified campaign reports detailing campaign contributions and expenditures must contain the occupation of each person making a contribution of \$500 or more.

H.5032 CRIMINAL SOLICITATION Rep. Jennings

Under the provisions of this bill, a person is guilty of criminal solicitation when he solicits, request, urges, commands, induces, hires, or otherwise attempts to cause another person to commit a felony, with intent that the other person commit the felony. The bill abolishes the common law offense of robbery and defines robbery as larceny from a person, or in the immediate presence of another person, by force, violence, the threat of force or violence, or intimidation. A person convicted of robbery must be imprisoned not more than fifteen years, regardless of the value of the property.

H.5035 OFFENSES AGAINST THE PEACE Rep. Townsend

This is a skeleton bill.

H.5038 ABORTION REGULATION Rep. Seithel

This bill requires facilities where any abortions are performed, regardless of the trimester of the pregnancy, to be regulated by the Department of Health and Environmental Control.

H.5040 CHILD ABUSE NOTIFICATION Rep. McMaster

This bill requires the law enforcement agency, upon making an arrest in connection with child abuse or neglect (including sexual abuse) to notify the solicitor of the arrest for purposes of seeking an indictment.

H.5044 CANDIDATES' CRIMINAL RECORDS CHECK Rep. Whatley

This bill states that, in addition to all other requirements of law, in order to qualify as a candidate to run in a primary or general election, candidates must file with the appropriate supervising authority a criminal records check regarding themselves from SLED or the FBI.

H.5045 RELIGIOUS FREEDOM RESTORATION ACT Rep. Campsen

Under the provisions of this bill, the State may not substantially burden a person's exercise of religion, even if the burden results from a rule of general applicability, unless it demonstrates that application of the burden to the person is in furtherance of a compelling state interest and the least restrictive means of furthering that compelling state interest. If a person's exercise of religion has been burdened in violation of this law, the person may assert the violation as a claim or defense in a judicial proceeding. If the person prevails in the proceeding, the court must award the person attorney's fees and costs. This new chapter would apply to all existing and future state and local laws and ordinances and the implementation of those laws and ordinances, whether statutory or otherwise.

H.5054 IMPAIRED OPERATION OF WATERCRAFT Rep. Jennings

This bill provides for a combination of chemical tests (breath, blood, and urine) to determine the presence of alcohol and drugs when there is probable cause to believe a person violated or is under arrest for operating watercraft and equipment while under the influence of alcohol and/or drugs. The administration of one test to determine the presence of alcohol and/or drugs in a person would not preclude the administration of other tests to determine the presence of alcohol and/or drugs in a person subject to testing.

S.325 BAIL AND BAIL BONDSMEN Sen. Bryan

This bill revises several sections of the code concerning bail and bail bondsmen. The bill states that magistrates may admit to bail a person charged with an offense the punishment of which is not death or imprisonment for life; provided, however, with respect to violent offenses, magistrates may deny bail giving due weight to the evidence and to the nature and circumstances of the event. This bill also states that a person charged with a bailable offense must have a bond hearing within 24 hours of his arrest and must be released within a reasonable time, not to exceed 4 hours, after the bond is delivered to the incarcerating facility.

The bill requires a surety desiring to be relieved on a bond for good cause or the nonpayment of fees to file with the court a motion to be relieved on the bond. A copy of the motion must be served upon the defendant, his attorney, and the solicitor's office. If the circumstances warrant immediate incarceration of the defendant to prevent imminent violation of a specific term of the bail bond, or if the defendant has violated any one of the specific terms of the bond, the surety may take the defendant to the appropriate detention facility for holding until the court orders that the surety be relieved. The surety must immediately file with the detention facility and the court an affidavit stating the facts to support the surrender of the defendant for good cause or the nonpayment of fees. When the affidavit is filed with the court, the surety must also file a motion to be relieved on the bond. A surety who surrenders a defendant and files an affidavit which does not show good cause or the nonpayment of fees is subject to penalties imposed for perjury. If a defendant fails to appear at a court proceeding to which he has been summoned, the court must issue a bench warrant for the defendant. If the surety fails to surrender the defendant or place a hold on the defendant's release from incarceration, commitment, or institutionalization within 30 days of the issuance of the bench warrant, the bond must be forfeited.

The bill also provides the licensing requirements for bondsmen and runners. An applicant for a license to work as a professional bondsman, surety bondsman, or runner must complete at least 20 hours of education in subjects pertinent to the duties and responsibilities of professional and surety bondsmen or runners, including all laws and regulations related to being a professional or surety bondsman or runner. A written examination must be administered at the conclusion of the course work. Each applicant must pass the examination before he can be licensed. Each person licensed as a professional bondsman, surety bondsman, or runner must complete annually at least 6 hours of continuing education before his license may be renewed. A person licensed as a professional bondsman, surety bondsman, or runner before the effective date of this section is not required to complete the requisite 20 hours of education but must complete 6 hours of continuing education courses in order to have his license renewed.

S.914 SC GARNISHMENT ACT OF 1998 Sen. Gregory

This bill provides a right to a writ of garnishment for persons who have received a judgment in court against another person to recover a non-consumer debt or a debt which resulted from a revolving account which is not a consumer credit transaction. The person may satisfy the judgment he has obtained by subjecting to garnishment income, wages, interest, rents, capital gains, dividend bonuses, and commissions of the judgment debtor. If the judgment debtor fails to answer the creditor's notice of intent to apply for a writ of garnishment, the court must issue a writ of garnishment against the judgment debtor for the amount of the judgment. Upon receipt of the writ of garnishment, the judgment creditor must forward a copy to the employer or other garnishee of the judgment debtor, which writ shall provide for the periodic payments of a stated portion of the salary or wages of the judgment debtor. The employer must remit the funds withheld to the judgment creditor within 15 days after withholding. An employer or other garnishee who wilfully violates the requirements of this chapter in regard to the garnishment and remittance of an employee's earnings or other garnishable income to a judgment creditor is subject to a civil penalty of \$250 for each violation to be imposed at the discretion of the court. The creditor has a right of action against the employer for any garnished wages not remitted, to include the

recovery of reasonable attorneys' fees and costs. The employee must be fully credited with payment toward the debt in the amount garnished even if those funds are not remitted to the creditor by the employer or other garnishee.

S.1166 CANDIDATE QUALIFICATIONS Sen. Moore

This joint resolution proposes to amend the South Carolina Constitution by requiring a candidate for the Senate or House of Representatives to be a legal resident of the district in which he is a candidate at the time he files for the office.

LABOR, COMMERCE AND INDUSTRY

H.4997 RESIDENTIAL HOME BUILDING AND SPECIALTY CONTRACTING Rep. Kirsh

This bill provides conditions by which a firm can obtain certification to practice residential home building and residential specialty contracting.

H.5020 "SOUTH CAROLINA ELECTRONIC COMMERCE ACT" Rep. Harrison

This bill expressly states that its purpose is to facilitate and promote electronic commerce and online government by clarifying the legal status of electronic records and electronic signatures in the context of writing and signing requirements imposed by law. The bill promotes the development of the legal and business infrastructure which is necessary to encourage public confidence in the validity, integrity, and reliability of electronic commerce and online government.

H.5021 COMPETITIVE BIDDING FOR STATE AND LOCAL WORKERS' COMPENSATION INSURANCE Rep. D. Smith

This bill authorizes the State Budget and Control Board to contract for the State and its political subdivisions (including school districts) for workers' compensation insurance, making use of a competitive bidding process.

**H.5036 PLACING EMPLOYEES AT RISK OF EXTREME INJURY OR DEATH
Rep. McMaster**

This bill provides that an employer who knowingly places an employee at grave risk of extreme injury or death during the course of employment may be sued in the courts of this state by the employee or, in the case of the employee's death, by the representative of the employee. The trier of fact may award both actual and punitive damages. The employee, or his representative, is entitled to collect any actual damages awarded, but, any punitive damages must be paid to the Workers' Compensation Commission. Under this bill, extreme injury entails paraplegia, quadriplegia, or physical brain damage. The bill defines "grave risk" as circumstances under which extreme injury or death is either certain or nearly certain to occur, rather than such risk or death being merely likely or probable.

MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

H.5033 EXAMINATION FOR LICENSURE AS A PHYSICIAN Rep. Fleming

This bill provides that an applicant may retake the physician's licensure examination five times rather than four times, if the applicant demonstrates special or compelling circumstances (i.e., illness). To retake the examination for the fifth time, the applicant is required to file a petition with the South Carolina Board of Medical Examiners stating the details of the compelling or special circumstances.

H.5039 BONDS FOR COMMUNITY RESIDENTIAL CARE FACILITIES Rep. McMaster

This bill requires a community residential care facility to file a bond with DHEC before being issued a license from DHEC to operate the facility. DHEC must specify the amount of the bond. The bond is required to ensure that the facility faithfully maintains the safety, security, and health of its residents.

S.1008 PRESCRIPTIONS FOR MEDICAID RECIPIENTS Sen. Anderson

This bill directs the Department of Health and Human Services to provide payment for 4 prescriptions per month for Medicaid eligible recipients, if the funds are available.

H.5009 CONTINUING EDUCATION CREDIT FOR COSMETOLOGIST Rep. Davenport

This bill allows a cosmetologist to obtain continuing education credit by attending a trade show cosmetology-related instructional program. A cosmetologist must get approval from and submit an approved attendance form to the State Board of Cosmetology to get continuing education credit for the program.

H.5003 GENERAL ASSEMBLY MEMBERS SERVING ON REGIONAL COUNCILS OF GOVERNMENT Rep. Miller

The governing bodies of the counties are authorized by state law to create regional counties of government by agreements approved by the governing bodies of the counties and the Governor. Agreements provide for the membership of the council. When a regional agreement provides for membership on the policy making body of the council, this bill would require that a resident member of the General Assembly from each county comprising the council would serve as an *ex officio* member of the council.

WAYS AND MEANS

H.4992 TAX ON HOSPITALS, MEDICAID EXPANSION FUND Rep. Felder

This bill deletes current law which subjects hospitals licensed in another state to the payment of excise, license, or privilege tax if the hospital does business in South Carolina. The bill also revises the method of assessing these taxes by providing that the Department of Revenue (DOR) must issue assessments for the tax based on information provided by the Department of Health and Environmental Control (DHEC) and the Office of Research and Statistics of the State Budget and Control Board. Current law provides that the DOR must issue assessments for this tax based on information provided by DHEC and the Health and Human Services Finance Commission. The bill also deletes various currently-required uses for Medicaid Expansion Fund monies.

H.5005 PROPERTY TAXES Rep. Bowers

This bill extends to secondary residences the four percent property tax assessment ratio which is currently allowed on a legal residence. The bill also extends the homestead exemption currently available to taxpayers who are over age sixty-five, disabled, or legally blind, to a secondary residence.

H.5006 "RESIDENTIAL PROPERTY TAX RELIEF TRUST FUND" Rep. Bowers

This bill requires the Board of Economic Advisors (BEA) to remove annually from its revenue projection for the succeeding fiscal year an amount equal to 15% of projected year-to-year recurring general fund growth, to be credited to a separate and distinct account known as the Residential Property Tax Relief Trust Fund. These funds must be used for monthly reimbursement to county taxing entities for tax revenues not collected as a result of property tax reductions provided in the bill. The bill requires that counties reduce property taxes by percentage reduction in the following order: 1) amounts required to equal a 4% assessment ratio on residential property; and 2) amounts required to extend to each individual unit of residential property, the current homestead exemption from property taxes levied for school operations other than those levied for bonded indebtedness and lease purchase payments for capital construction. The bill requires that item one must be satisfied before reductions are applied to item two. The bill also provides that the value of property exempted from property tax under the bill is considered taxable property for purposes of bonded indebtedness pursuant to specified Sections of Article X of the *SC Constitution* and for purposes of computing the "index of taxpaying ability."

H.5013 PROPERTY TAX Rep. Rodgers

This bill provides that when evidence of completion is issued on new construction, the use and value of the property is considered to have changed effective on the date the evidence of completion is issued, and the tax on that property for that tax year must be prorated using the value and use of the property for each part of the year. The bill also provides that if due to fire or natural disaster, an improvement to real estate is destroyed or so damaged that it cannot be put to its intended use, the owner or the owner's agent may file a request for immediate reassessment with the county assessor, who must then examine the property and issue a revised evaluation and change of use, if applicable, for the property effective beginning with the date of the destruction or damage. The property tax on the property for the tax year the damage occurs must be prorated as provided in the bill, but the provisions of the bill do not apply to property in which the destruction or damage occurs after the eleventh month of the tax year. The bill provides for appeals of the reassessment. The bill also requires that closing attorneys must provide in writing to purchasers of residential real property the requirements for the purchaser, if eligible, to obtain homestead exemptions as provided in *SC Code* Sections 12-37-250 and 12-37-251.

H.5037 "COMPUTER NETWORK ECONOMIC IMPACT ACT OF 1998" Rep. McMaster

This is a skeleton bill.

H.5041 STATE INCOME TAX CREDITS Rep. McMaster

This bill adds sections to Article 25, Chapter 6, Title 12 of the *SC Code* regarding State Income Tax Credits. The bill provides a \$500 income tax credit against the taxable income of an individual taxpayer who has a mentally or physically handicapped dependent. The bill also provides definitions for mental and physical handicaps.

H.5051 TAXPAYER APPEAL OF A JEOPARDY ASSESSMENT Rep. Robinson

This bill revises procedures concerning a taxpayer's appeal of a jeopardy assessment. Under current law, a jeopardy assessment may be made if the Department of Revenue (DOR) finds that the assessment or the collection of a tax or deficiency for any tax period is jeopardized by delay. Upon such a finding, the DOR may terminate the taxpayer's current tax period and immediately assess the tax for the current period and prior periods not barred by the statute of limitations including all interest, penalties, and other amounts provided by law. This bill allows the taxpayer to request relief by delivering the request and grounds for relief to the DOR; sets time requirements for filing of DOR's response and judicial determination from the date a jeopardy hearing is requested; changes the scope of judicial review from the reasonableness of making the assessment to a determination that the collection of the tax is in jeopardy; and revises the review procedure to reflect changes in the scope of review.

The *Legislative Update* is on the Worldwide Web. Visit the South Carolina General Assembly Home Page (www.lpittr.state.sc.us) and click on the "Quick Find Guide." On the next screen, click on "Legislative Updates." This will list all of the *Legislative Updates* by date. Click on the date you need.

SPECIAL NOTE: A cumulative index to the weekly issues of the *Legislative Update* has been added to the *Legislative Update* page on the Worldwide Web. Bills are listed in numerical order in this index. Each bill number is followed by a list of hypertext links (in chronological order) to every reference to that bill in any issue of the *Legislative Update* during the current session, 1997-98. This is an easy way (just click on the links) to find summaries of bills introduced into the House and to follow the progress of a bill through House committees and on the floors of the House and Senate.